

Gavin McNett
29 South Valley Road
West Orange, NJ 07052
(973) 524-2587
gavin.1@gmail.com

March 13, 2019

Oregon State Bar
Client Assistance Office

Re: Susan Cournoyer, OSB #863381

Dear Client Assistance Office;

This is a professional complaint against Susan R. Cournoyer, for violations of RPC Rules 1.15, 3.3, 3.5, 3.7, 4.1, 4.4, and 8.4, as well as violations of state and federal statutes including but not limited to 162.025, 162.235, 162.295, 162.305, 162.325, 162.415, and 18 USC § 1512(b), (c) (d), and § 1519.

In November 2017, I provided the Disciplinary Counsel's Office with a formal letter credibly warning against the foreseeable destruction of records and evidence, including client files, by the now-disgraced firm of Perry & Moeller, PC. This letter, which pleaded with the OSB to secure Perry & Moeller's practice under ORS 9.705 to 9.757 was ignored, as were nearly all of my efforts to communicate with DCO. **[Ex. A]**

On February 15, 2018, three Albany attorneys sent the same warning by email to now-former Deputy General Counsel Mark Johnson-Roberts **[Ex. B]**. This email was discovered via a public records request by my family. It had been withheld from most officials at the OSB, after Johnson-Roberts shared it with Cournoyer, the Assistant Disciplinary Counsel handling the bar's numerous investigations of Perry.

The decision by Cournoyer and Johnson-Roberts to withhold this information allowed Perry & Moeller to destroy or conceal evidence of misconduct in all 16 of DCO's pending investigations of Perry. Its wider, equally foreseeable consequence was to further victimize the literally incalculable number of other clients, opponents, and third parties harmed during Perry's brief smash-and-grab law career. No one was warned to safeguard their client property and papers, before evidence of misconduct and criminal activity in the roughly 300 other case files left under Perry & Moeller's sole control could be tampered with or destroyed.

Cournoyer's efforts in every matter involving Perry have invariably protected Perry from due consequences while materially worsening the suffering and plight of Perry's victims. Many of those efforts (e.g. actively protecting Perry from criminal investigation, suppressing notice of Perry's Form B disbarment from the Bar Bulletin) are beyond the scope of this complaint. This complaint therefore incorporates all the other related complaints. Cournoyer's interference in my legal affairs is an emerging matter with further allegations and evidence developing. It includes and is certainly not limited to the following.

On February 22, 2018, I mailed a motion to the Court of Appeals to hold my appellate case (No. A165387) in abeyance pending the outcome of OSB disciplinary proceedings [Ex. C]. This was the first information about Perry and related matters to reach the appellate court.

The motion requested an abeyance due to “OSB disciplinary proceedings arising directly from this case against defendants Megan M. Perry, James Van Ness, and Tahra Sinks, and the resolution of a dependent proceeding, Polk County case #17CV52035, to secure [my] client file from Mr. Van Ness, who is withholding it in defiance of formal requests from the Bar.”

The motion was court-stamped as received by Appellate Records on February 26, 2018. Immediately afterward on that day, Perry suddenly announced via her attorneys to Cournoyer that she would be resigning via Form B. Cournoyer responded within minutes [Ex. D]. Cournoyer immediately stopped all investigation of Perry’s sixteen separate disciplinary complaints. All work simultaneously ceased on the complaints against Van Ness and Sinks.

Less than three days later, at 1:10 p.m. on March 1, 2018, Perry’s attorneys emailed Cournoyer a copy of Perry’s completed and signed Form B. Cournoyer replied to them at 1:35 p.m. that she would file it that day with the court [Ex. E].

With remarkable speed, James Egan entered an order at 2:07 p.m. denying, without explanation or comment, the newly-received Motion to Hold in Abeyance. The order was signed and entered before Perry’s Form B was even received by Appellate Records. [Ex. F]. Cournoyer e-filed Perry’s resignation 37 minutes later, at 2:41 p.m. [Ex. G].

It is certain that Cournoyer coordinated the matter of Perry’s Form B resignation with Judge Egan, either directly or through his staff, and that Judge Egan was improperly and wrongly informed that Perry’s resignation somehow resolved all of the pending matters before the OSB.

Indeed, after Perry submitted her Form B, the complaints against Van Ness and Sinks were arbitrarily dismissed, despite Mr. Van Ness’s failure for nearly two years to cooperate with the Bar’s investigation, including but not limited to his refusal to provide a trust accounting. Disciplinary Counsel had also received documentary evidence of an improper, undisclosed meeting between Van Ness and Perry, attended by Perry’s client.

Cournoyer, with or without the knowledge of Stacy Owen and Dawn Evans, conspired and/or was bribed by Perry, with complicity by Van Ness and/or Sinks, making my pending bar complaints – each of which implicated Perry in specific criminal actions -- ‘go away.’¹ To clarify, my complaints demonstrated collusion between the investigated attorneys and court staff to fix the outcome of my trial court case. Each complaint implicated Perry in the very sort of criminal activity that Cournoyer withheld from the SPRB and law enforcement.

In exchange for Perry’s self-disbarment – disbarment being unavoidable due to the severe and brazen misconduct on record -- Cournoyer acted to ensure there would be no referral to the appropriate authorities regarding Perry’s criminal activities, and acted to spare Moeller, Van Ness, and Sinks from professional investigation and sanction based on Perry’s conduct, as though the

¹ Owen’s and Van Ness’s participation in this conspiracy is discussed further in the professional and criminal complaints filed/to be filed against them.

lawyers who participated in Perry's frauds were the 'victims' the ODC was chartered to protect, instead of myself or the public.

Earlier this year, I raised the issue of Cournoyer communicating with Appellate staff about the case, and the appeal was quickly dismissed with all pending motions denied.

It is unclear whether Cournoyer has made any effort whatsoever on behalf of a non-offending party in any case involving misconduct by Megan Perry. Fully half of the cases memorialized on Perry's Form B involve out-of-state victims of serious criminal offenses. There are obviously multiple federal causes of action created by Cournoyer's manipulative behavior and insubordination, her apparent addiction to risky activities and petty conspiracies, and her lack of personal and professional principles. Moreover, Cournoyer seems constantly and exclusively engaged in hatching schemes within and outside of the Bar that invariably cause injustice on behalf of some predatory actor or to the harm of bystanders and victims.

There are, of course, further claims and evidence regarding Cournoyer's interference in my legal affairs. This complaint will be updated as more of her bad actions and abuses cause greater injury to my rights and my family's safety.

Respectfully,

/s/ Gavin F. McNett

Gavin F. McNett

Exhibit A

Gavin McNett
29 South Valley Road
West Orange, NJ 07052
gavin.1@gmail.com
(973) 524-2587

November 14, 2017

Helen Hierschbiel, Executive Director
Oregon State Bar
P.O. Box 231935
Tigard, OR 97281-1935

cc: Dawn Evans, Disciplinary Counsel; Linn Davis, CAO Director

Dear Ms. Hierschbiel:

This letter is to formally request that the Oregon State Bar exercise its statutory authority under ORS 9.705 to 9.757 in the matter of suspended attorney Megan M. Perry (#135318) to secure Ms. Perry's law practice, including "the trust account, legal files, clients' trust funds, clients' property, and all books, records, funds and property used in operation" of the practice.

The Disciplinary Counsel's Office is presently engaged in fourteen separate investigations of a pattern of fraud and deception committed by Ms. Perry against clients, opponents, and the legal system. Significantly, the OSB has received multiple, evidenced allegations that Ms. Perry has falsified papers, including judicial rulings, and has submitted the falsified papers to the courts and other government agencies; that Ms. Perry has willfully concealed and mishandled client files; that Ms. Perry has acted with indifference and malice against clients she was charged to protect; that she has failed to obey lawful orders and failed cooperate with lawful authorities including the Bar; that Ms. Perry has withdrawn and/or failed to withdraw from proceedings and attorney-client relationships without notice or effort to protect clients; that Ms. Perry has engaged in habitual misrepresentation of documents in her possession and funds in her custody; and that Ms. Perry has gone to extraordinary lengths to prevent acts against clients, opponents, and the legal system from being discovered or investigated.

Given the allegations and evidence provided to the Bar, Ms. Perry's practice must be protected against the tampering, falsification, and destruction of records and client property that ORS 9.705 to 9.757 uniquely empowers the Bar to prevent, for the sake of the public interest.

ORS 9.710 provides as follows:

When the Oregon State Bar determines that one of the circumstances listed in ORS 9.710 exists, the bar may petition the court *ex parte* to take immediate jurisdiction over the affected attorney's law practice as provided in ORS 9.705 to 9.757.

The two circumstances listed in ORS 9.710 are:

- (1) The attorney failed to make arrangements for the orderly suspension or termination of the law practice of the attorney; or
- (2) A duly appointed personal representative or other person assisting with the suspension or termination of the law practice is unable to adequately protect the interests of the attorney's clients.

The first is *prima facie* met by the substance and evidence of the investigative materials forwarded to Disciplinary Counsel.

The second circumstance was met when Ms. Perry arranged to enter inactive status in advance of investigation, appointing her husband and law partner Erik Moeller (#123972) as custodian of her client files, including withheld client documents and other requested evidence that Mr. Moeller has failed to turn over both to the OSB and to the files' owners. Disciplinary Counsel may review the tenor of Mr. Moeller's actions in the complaints under current bar investigation, e.g. the December 2016 complaint of Perry client Lori Reid:

"I would also like to note at this time, that the conversation I had with Mr. Moeller on September 7, 2016 was not pleasant. I didn't feel Mr. Moeller listened to me; rather he talked over me which was very intimidating. At some point in the conversation he stated, you hired Ms. Perry to assist you in a divorce, you're divorced, therefore she did what she was obligated to do. he stated that my case would be wrapped up and I would get my "final" bill. I remember after talking to Mr. Moeller I was so upset and my hands were shaking. I truly feel he may have conversed with Ms. Perry before our conversation and wasn't given the true facts. Mr. Moeller also never responded to further emails that were sent to him after September 8, 2016."

Many of the complainants state that Perry Moeller PC collected a retainer, told them that their case had been filed with the court, and upheld the fraud for months or years before the complainant discovered that no work at all had been done on their behalf. It is impossible to know how many more victims there are without examining the firm's records. Perry Moeller, PC was also involved in many estates, adult protective cases, and minor guardianship cases, classic areas of legal fraud against vulnerable and defenseless parties.

Ms. Perry -- who does not keep electronic records, only paper records -- was recently observed removing items from Perry & Moeller's Albany office and loading them into a U-Haul. Ms. Perry chose to physically relocate records in the midst of the OSB investigations, and in advance of eleven separate tort lawsuits against her that we are aware of. It is foreseeable that there are already files irretrievably lost or "sanitized."

In my family's case, there is the additional concern that attorney James Van Ness, who is also the subject of a related disciplinary investigation, has been withholding my client file against bar instructions for over a year. Mr. Van Ness's website was recently taken down, he has changed his phone number, and he has split from his partner. We have reasonable concerns about the security of our client file, and about the 300-plus emails exchanged between Mr. Van Ness and Ms. Perry during the course of our case, which constitute clear and material evidence of the collusion between Mr. Van Ness and Ms. Perry which is alleged in our complaint. Ms. Perry attests to the existence of these "300-plus" emails on the court record. Ms. Perry is clearly not a trustworthy sole custodian of this valuable evidence.

We formally request that the Bar take immediate and appropriate action to protect Megan Perry's clients, opponents, and the public interest from the foreseeable harm that will result if these records are not protected under statute. Please act quickly and decisively to protect the current and future interests of her clients, their opponents, and the general public, as you so wisely did in the matter of attorney Andrew Long.

Respectfully,

A handwritten signature in black ink, appearing to read 'Gavin McNett', with a stylized, flowing script.

Gavin McNett

Exhibit B

Cassandra Dyke

From: Robert C. McCann
Sent: Thursday, February 15, 2018 3:25 PM
To: Mark Johnson Roberts
Cc: andy@danielsivers.com; Suzette Boardman
Subject: Witnesses regarding unethical conduct of Megan Perry and Eric Moeller

Good Afternoon Mark,

I am writing to you with concerns regarding the status of the bars investigation into the unethical conduct of Ms. Megan Perry and her husband/partner, Eric Moeller. I have copied Mr. Andy Ivers, another attorney here in Albany because he and I have great concerns regarding what we anticipate is a "lie and deny" effort of Ms. Perry and Mr. Moeller to minimize their unethical behavior.

Andy currently employs Mr. Dan Miller, an attorney formerly associated with Perry and Moeller, and the former secretary of Ms. Perry. They have notebooks of information as well as eye witness accounts of the unethical conduct of Ms. Perry and Mr. Moeller and the efforts they have made to hide their behavior. Much of the documentation they have was copied from documents which were later destroyed by Perry and Moeller. Both Mr. Miller and Ms. Perry's former secretary have spoken with representatives of the PLF but no one has expressed an interest in speaking to them regarding the ethics side of this. The information these two people possess are voluminous and damning. Yet no one has even tried to speak to them. Who do I need to contact to insure the information is obtained by the bars investigation?

Frankly, Ms. Perry and Mr. Moeller have engaged in some of the most reprehensible and unethical conduct I have heard of. From the local bar's perspective nothing is coming of it. I hope the perception of the local attorneys is not correct.

Respectfully,

Bob McCann

Sent from Mail for Windows 10

Exhibit C

RECEIVED
STATE COURT ADMINISTRATOR
FEB 26 2018
— SUPREME COURT
— COURT OF APPEALS
— DEPUTY — FILED

IN THE COURT OF APPEALS OF THE STATE OF OREGON

MARITA C. BARTH,
Petitioner-Respondent,

and

GAVIN F. MCNETT,
Respondent-Appellant.

Polk County Circuit Court
No. 13P2615

Court of Appeals No. A165387

**APPELLANT'S MOTION – OTHER
HOLD IN ABEYANCE PENDING OUTCOME OF DISCIPLINARY
PROCEEDINGS**

COMES NOW, Respondent-Appellant, and respectfully moves this Court to hold the appeal in abeyance pending the outcome of Oregon State Bar disciplinary proceedings for misconduct material to the underlying trial court proceeding.

There are officially-founded investigations of serious misconduct arising in this case by the original attorneys for both Respondent-Appellant and Petitioner-Respondent, as well as by the court-appointed parenting time coordinator. Two of the three matters have been advanced to Disciplinary Counsel, and all are pending.

Respondent-Appellant has found it impossible to adequately frame the case's issues on appeal due to ongoing developments from the investigations and their effects on the case. The former attorney for Petitioner-Respondent, Megan M. Perry, is now suspended from practicing law and is under seventeen (17) separate investigations by Disciplinary Counsel at the OSB for alleged offenses including fraud, deception, and the falsification of court documents.

The investigation of Ms. Perry arising from the present trial court case includes but is not limited to witness tampering, improper *ex parte* contact with court officials, and material misrepresentations to the Court. There is legitimate concern as to the integrity of the trial court's Judgment. It is unclear whether further trial court proceedings will be necessary that would fundamentally change the case on appeal.

It is certainly not necessary that all or even most of Ms. Perry's Bar investigations be resolved, but it is impossible to write an adequate Appellate brief without at least resolving Ms. Perry's evidenced and admitted violations of ORPC Rules 3.1, 4.3, and 8.4 in the present case. The very fabric of Respondent-Appellant's opening brief to this Court depends on the OSB's findings regarding the trial court case.

Respondent-Appellant therefore respectfully moves for an abeyance pending the outcome of OSB disciplinary proceedings *arising directly from this case* against defendants Megan M. Perry, James Van Ness, and Tahra Sinks, and the resolution of a dependent proceeding, Polk County case #17CV52035, to

secure Respondent-Appellant's client file from Mr. Van Ness, who is withholding it in defiance of formal requests from the Bar.

Opposing counsel's position on this motion is unknown.

Dated this 22 day of February, 2018.

A handwritten signature in black ink, appearing to read 'G. McNett', written over a horizontal line.

Gavin F. McNett
Respondent-Appellant

Exhibit D

Angela McCracken

From: Susan Cournoyer
Sent: Monday, February 26, 2018 10:36 AM
To: 'Nellie.Barnard@hklaw.com'; 'Allison.MartinRhodes@hklaw.com'
Cc: Angela McCracken
Subject: RE: Perry (Chapman)

Thank you for this information, Nellie. Please keep me posted.

Susan



Susan Cournoyer
Assistant Disciplinary Counsel
503-431-6324
SCournoyer@osbar.org

Oregon State Bar • 16037 SW Upper Boones Ferry Road • PO Box 231935 • Tigard, OR 97281-1935 • www.osbar.org

Please note: Your email communication may be subject to public disclosure. Written communications to or from the Oregon State Bar are public records that, with limited exceptions, must be made available to anyone upon request in accordance with Oregon's public records laws.

From: Nellie.Barnard@hklaw.com [mailto:Nellie.Barnard@hklaw.com]
Sent: Monday, February 26, 2018 10:27 AM
To: Susan Cournoyer <SCournoyer@osbar.org>; Allison.MartinRhodes@hklaw.com
Cc: Angela McCracken <amccracken@osbar.org>
Subject: RE: Perry (Chapman)

Hi Susan,

Megan has just confirmed that she plans to resign under Form B. We will get the required paperwork over to you this week.

Best,

Nellie Q. Barnard | Holland & Knight

Associate

Holland & Knight LLP

2300 U.S. Bancorp Tower, 111 S.W. Fifth Avenue | Portland, OR 97204

Phone 503.243.5892 | Fax 503.241.8014

nellie.barnard@hklaw.com | www.hklaw.com

[Add to address book](#) | [View professional biography](#)

From: Susan Cournoyer [mailto:SCournoyer@osbar.org]
Sent: Friday, February 23, 2018 10:42 AM
To: Barnard, Nellie Q (POR - X55892) <Nellie.Barnard@hklaw.com>; Rhodes, Allison D (POR - X55887)

Exhibit E

Angela McCracken

From: Susan Cournoyer
Sent: Thursday, March 01, 2018 1:35 PM
To: 'Nellie.Barnard@hklaw.com'
Cc: 'Allison.MartinRhodes@hklaw.com'
Subject: RE: Perry Form B

Thank you, Nellie and Allison.

I intend to e-file the Form B with the court today. I will use this electronic copy, although I would like the wet-ink original for the Bar's files, when you receive it.

We do not copy or otherwise notify complainants when we file a Form B resignation. However, once filed, it will be a matter of public record, and anyone who makes a public records request for the Bar's investigation files on Megan Perry would receive a copy.

We do notify complainants and the PLF when a Form B resignation is accepted by the court. We send copies of the resignation and the court's order.

Please let me know if you have further questions or matters to discuss.

Thanks again,

Susan



Susan Cournoyer
Assistant Disciplinary Counsel
503-431-6324
SCournoyer@osbar.org

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From: Nellie.Barnard@hklaw.com [mailto:Nellie.Barnard@hklaw.com]
Sent: Thursday, March 01, 2018 1:10 PM
To: Susan Cournoyer <SCournoyer@osbar.org>
Cc: Allison.MartinRhodes@hklaw.com
Subject: Perry Form B

Susan,

Attached please find Megan's resignation. A couple of questions:

1. When will you file this?
2. When will you notify complainants of the resignation? After it is accepted or now?

Best,

Exhibit F

IN THE COURT OF APPEALS OF THE STATE OF OREGON

MARITA C. BARTH,
Petitioner-Respondent,

v.

GAVIN F. MCNETT,
Respondent-Appellant.

Polk County Circuit Court
13P2615

A165387

ORDER DENYING MOTION TO HOLD IN ABEYANCE

Appellant has moved to hold this appeal in abeyance pending the outcome of disciplinary proceedings.

The motion is denied. In the alternative the court will grant time through May 30, 2018, to file the opening brief.



JAMES C. EGAN
CHIEF JUDGE, COURT OF APPEALS
3/1/2018 2:07 PM

c: Gavin F McNett
Stephanie F Wilson

km

ORDER DENYING MOTION TO HOLD IN ABEYANCE

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section,
Supreme Court Building, 1163 State Street, Salem, OR 97301-2563

Exhibit G

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:) FORM B
) RESIGNATION
MEGAN M. PERRY, OSB #135318)

State of Oregon)
County of Benton) ss

I, MEGAN M. PERRY, being duly sworn on oath, depose and say that I am currently inactive and not presently practicing law and, as such, I have no principal office for the practice of law or other business; that my residence address is 920 NW Carpathian, Corvallis, Oregon 97330, and that I hereby tender my resignation from membership in the Oregon State Bar and request and consent to my removal from the roster of those admitted to practice before the courts of this state and from membership in the Oregon State Bar.

I am aware that complaints, allegations or instances of alleged misconduct by me are under investigation by the Oregon State Bar and that such complaints allegations and/or instances include:

1. Case No. 18-13, complaint of Roger Lamont, alleging violations of RPC 1.4(a) [failure to keep client reasonably informed; failure to respond to reasonable requests for information]; RPC 1.15-1(d) [failure to deliver property client is entitled to receive]; and RPC 1.16(d) [upon termination of representation, failure to surrender client papers and other property];
2. Case No. 18-14, complaint of Lori Reid, alleging violations of RPC 1.2(a) [failure to abide by client's decisions concerning objectives of representation]; and RPC 1.4(a);
3. Case No. 18-15, complaint of Kennya R. Marzano, alleging violations of RPC 1.1 [failure to provide competent representation]; RPC 1.3 [neglect of a legal matter]; RPC 1.4(a); and RPC 8.4(a)(3) [dishonesty, fraud, deceit or misrepresentation];
4. Case No. 18-16, complaint of Jeffrey A. Hart, alleging violations of RPC 1.3; and RPC 8.4(a)(3);
5. Case No. 18-17, complaint of Kaylee K. Knapp, alleging violations of RPC 1.3; RPC 1.4(a); and RPC 8.4(a)(3);
6. Case No. 18-18, complaint of Gavin F. McNett, alleging violations of RPC 3.1 [knowingly taking action without a nonfrivolous basis in law or fact]; RPC 4.3 [improper communication with unrepresented parties]; and RPC 8.4(a)(4) [conduct prejudicial to the administration of justice];